



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Attorney Docket No. AUS920030419US1

IN RE APPLICATION OF: S
S
S Chen et al Examiner: Glenn E. Richman
S
S Serial No. 10/617,525 S Art Unit: 3764
S
S Filed: 7/10/2003 S
S
For: Workout Processing System S

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Brief is submitted in support of the Appeal in the above-identified application.

CERTIFICATE OF MAILING
37 CFR 1.8(a)

I hereby certify that this correspondence is being transmitted by fax to Group Fax Number 571-273-8300, or deposited First Class mail and addressed to "Honorable Commissioner For Patents, PO Box 1450, Alexandria, Virginia 22313-1450", on the date set forth below.

October 24, 2008

Date

/Robert V. Wilder/
Robert V. Wilder
Signature

APPEAL BRIEF
PAGE 1 OF 25
Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

10/28/2008 CNGUYEN2 00000073 090447 10617525
01 FC:1402 540.00 DA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

44
45
46

REAL PARTY IN INTEREST

47 The present application is assigned to International Business
48 Machines Corporation, the real party in interest.

49

RELATED APPEALS AND INTERFERENCES

50
51

52 No related Appeals or Interferences are currently pending.

53

54

STATUS OF THE CLAIMS

55

56 Claims 1-3, 5-7 and 9-19 are pending and stand finally rejected
57 by the Examiner as noted in the Final Office Action mailed August
58 4, 2008. Claims 4 and 8 have previously been canceled. The
59 rejection of claims 1-3, 5-7 and 9-19 is hereby being appealed.

60

61

STATUS OF AMENDMENTS

62

63 No Amendments have been filed subsequent to the Final Rejection
64 which was mailed on August 4, 2008.

65

SUMMARY OF THE CLAIMED SUBJECT MATTER

66

68 The subject patent application includes pending independent
69 claims 1, 17, and 18, and the remaining claims ultimately depend
70 from and include all of the limitations of independent claim 1 or
71 independent claim 18. Claims 1 and 18 recite a method embodying

APPEAL BRIEF
PAGE 2 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

72 the present invention, and claim 17 recites a medium embodying
73 the present invention. A concise explanation of the claimed
74 subject matter is defined in each of the claims, which, along
75 with exemplary and non-exclusive specification and drawing
76 references, are discussed below.

77

78 1. A method for operating a workout facility having a plurality
79 of workout stations (e.g., *inter alia*, 403, 405, 407 Fig. 4; p-
80 10, 1-24 et seq.) arranged for use by individual users, said
81 method comprising:

82

83 receiving identification (ID) signals (e.g., *inter alia*, 1601,
84 Fig. 16; p-10, 1-15 et seq.) at one of said workout stations,
85 said ID signals being representative of an individual user,
86 wherein said receiving is accomplished by receiving ID signals at
87 a reading device located at said workout station, said ID signals
88 being generated by an initial reading of a code contained on an
89 article carried by said individual user (e.g., *inter alia*, 301,
90 Fig. 3; p-9, 1-5 et seq.);

91

92 measuring workout data generated by said individual user at said
93 workout station (e.g., *inter alia*, 1607, Fig. 16; p-19, 1-25 et
94 seq.);

95

96 saving said workout data to a workout data file associated with
97 said individual user when said user has finished using said
98 workout station (e.g., *inter alia*, 1515, Fig. 15; 1607, 1611,
99 Fig. 16; p-18, 1-26 et seq.); and

100

101 determining when said individual user has finished using said

APPEAL BRIEF
PAGE 3 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

102 workout station (e.g., *inter alia*, 1609, Fig. 16; p-19, 1-30 et
103 seq.), said determining being accomplished by detecting when said
104 ID signals are read for a second time at said workout station,
105 said second reading signifying that said individual user has
106 completed a workout at said workout station (e.g., *inter alia*, p-
107 19, 1-31, et seq.).

108

109 2. The method as set forth in claim 1 wherein said workout data
110 file is maintained at a server within said workout facility
111 (e.g., *inter alia*, 401, Fig. 4; p-10, 1-20 et seq.)

112

113 3. The method as set forth in claim 1 wherein said receiving is
114 accomplished by receiving ID signals transmitted from a
115 transmitter device (e.g., *inter alia*, 301, Fig. 3; p-9, 1-10 et
116 seq.) carried by said individual user.

117

118 4. Cancelled.

119

120 5. The method as set forth in claim 1 wherein said code is a bar
121 code readable by an optical reading device (e.g., *inter alia*,
122 305, Fig. 3; p-9, 1-15 et seq.).

123

124 6. The method as set forth in claim 1 wherein said code is a
125 magnetic code on a medium readable by a magnetic code reading
126 device (e.g., *inter alia*, 305, Fig. 3; p-9, 1-15 et seq.).

127

128 7. The method as set forth in claim 3 and further including
129 determining when said individual user has finished using said
130 workout station (e.g., *inter alia*, 1609, Fig. 16; p-19, 1-30 et
131 seq.), said determining being accomplished by detecting an

**APPEAL BRIEF
PAGE 4 OF 25**

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

132 absence of said transmitted ID signals at said workout station
133 (e.g., *inter alia*, p-20, 1-1 et seq.).

134

135 8. Cancelled.

136

137 9. The method as set forth in claim 1 and further including
138 displaying said workout data on a display device located at said
139 workout station (e.g., *inter alia*, 227 228, Fig. 2; p-8, 1-18 et
140 seq.).

141

142 10. The method as set forth in claim 1 and further including:

143

144 displaying said workout data file of said individual user on a
145 display device located at said workout station (e.g., *inter alia*,
146 227 228, Fig. 2; p-8, 1-18 et seq.).

147

148 11. The method as set forth in claim 10 wherein said workout data
149 file further includes a workout routine for said individual user,
150 said workout routine including specific workout protocols for
151 said individual user at each of said plurality of workout
152 stations (e.g., *inter alia*, 1300, Fig. 13; p-17, 1-4 et seq.).

153

154 12. The method as set forth in claim 11 and further including
155 displaying said specific workout protocols for said individual
156 user on said display devices at workout stations being used by
157 said individual user (e.g., *inter alia*, 1300, Fig. 13; p-17, 1-4
158 et seq.).

159

160 13. The method as set forth in claim 1 and further including
161 saving workout data from a plurality of workout stations to said

APPEAL BRIEF
PAGE 5 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

162 workout data file (e.g., *inter alia*, 1607, Fig. 16; p-19, 1-25,
163 *et seq.*).

164

165 14. The method as set forth in claim 1 and further including
166 enabling reservation of selected workout stations by said
167 individual user (e.g., *inter alia*, 601, Fig. 6; p-12, 1-33 *et*
168 *seq.*).

169

170 15. The method as set forth in claim 14 and further including
171 displaying notice of said reservation of a reserved workout
172 station at a display device located at said reserved workout
173 station (e.g., *inter alia*, 1605, Fig. 16; p-19, 1-21 *et seq.*).

174

175 16. The method as set forth in claim 15 and further including
176 disabling said reserved workout station (e.g., *inter alia*, 1413,
177 Fig. 14; p-4, 1-11; p-17, 1-20 *et seq.*), said reserved workout
178 station being selectively enabled by said receiving of said ID
179 signals associated with said individual user at said reserved
180 workout station.

181

182 17. A medium programmed to provide operating signals when said
183 medium is read by a compatible reading device at a workout
184 facility computer system, said operating signals being effective
185 for causing said workout facility computer system to interact
186 with individual workout stations (e.g., *inter alia*, 403, 405, 407
187 Fig. 4; p-10, 1-24 *et seq.*) located within said workout facility
188 for:

189

190 receiving identification (ID) signals (e.g., *inter alia*, 1601,
191 Fig. 16; p-10, 1-15 *et seq.*) at one of said workout stations,

APPEAL BRIEF
PAGE 6 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

192 said ID signals being representative of an individual user,
193 wherein said receiving is accomplished by receiving ID signals at
194 a reading device located at said workout station, said ID signals
195 being generated by an initial reading of a code contained on an
196 article carried by said individual user (e.g., *inter alia*, 301,
197 Fig. 3; p-9, 1-5 *et seq.*);
198
199 measuring workout data generated by said individual user at said
200 workout station (e.g., *inter alia*, 1607, Fig. 16; p-19, 1-25 *et*
201 *seq.*);
202
203 saving said workout data to a workout data file associated with
204 said individual user when said user has finished using said
205 workout station (e.g., *inter alia*, 1515, Fig. 15; 1607, 1611,
206 Fig. 16; p-18, 1-26 *et seq.*), said workout data file being stored
207 at said workout facility computer system; and
208
209 determining when said individual user has finished using said
210 workout station (e.g., *inter alia*, 1609, Fig. 16; p-19, 1-30 *et*
211 *seq.*), said determining being accomplished by detecting when said
212 ID signals are read for a second time at said workout station,
213 said second reading signifying that said individual user has
214 completed a workout at said workout station (e.g., *inter alia*, p-
215 19, 1-31, *et seq.*).
216
217 18. A method for operating a workout facility having a plurality
218 of workout stations arranged for use by individual users, said
219 method comprising:
220
221 receiving a request from a user to schedule a workout session

APPEAL BRIEF
PAGE 7 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

222 using said workstations at said workout facility (e.g., inter
223 alia, 1103, Fig. 11; p-15, 1-15 et seq.);
224
225 enabling user access to a facility workout schedule for workout
226 stations within said workout facility (e.g., inter alia, 1117,
227 Fig. 11; p-15, 1-25 et seq.);
228
229 receiving scheduling input from said user (e.g., inter alia,
230 1119, Fig. 11; p-15, 1-28 et seq.), said scheduling input
231 defining a user workout schedule for said user at said workout
232 facility;
233
234 storing said user workout schedule at a workout server used by
235 said workout facility (e.g., inter alia, 1121, Fig. 11; p-15, 1-
236 30 et seq.);
237
238 reserving workout stations scheduled by said user to enable only
239 said user to use workstations at times designated in said user
240 workout schedule (e.g., inter alia, 800, Fig. 8; p-16, 1-25 et
241 seq.);
242
243 detecting when said user enters said workstation facility by
244 detecting a user identification (ID) signal transmitted from a
245 device carried by said user (e.g., inter alia, 433, Fig. 4; 1505,
246 Fig. 15; p-18, 1-14 et seq.);
247
248 storing information indicating a presence of said user at said
249 workout facility in response to said detecting (e.g., inter alia,
250 1509, Fig. 15; p-18, 1-21 et seq.);
251

APPEAL BRIEF
PAGE 8 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

252 determining when said user is in proximity to a first workout
253 station scheduled for use by said user (e.g., *inter alia*, 1601,
254 Fig. 16; p-19, l-15 *et seq.*);
255
256 displaying said user workout schedule on a display device
257 viewable by said user from said first workout station in response
258 to said determining (e.g., *inter alia*, 227 228, Fig. 2; p-8, l-18
259 *et seq.*);
260
261 collecting workout data of said user while said user is working
262 at said first workout station (e.g., *inter alia*, 1607, Fig. 16;
263 p-19, l-25 *et seq.*);
264
265 determining when said user departs from said first workout
266 station (e.g., *inter alia*, 1609, Fig. 16; p-19, l-29, *et seq.*);
267
268 updating said user workout schedule by recording said workout
269 data of said user collected at said first workout station after
270 said user has departed from said first workout station (e.g.,
271 *inter alia*, 1607, Fig. 16; p-19, l-25 *et seq.*);
272
273 terminating said displaying after said determining that said user
274 has departed from said first workout station (e.g., *inter alia*,
275 1609, Fig. 16; p-19, l-29, *et seq.*); and
276
277 enabling other users to use said first workout station after said
278 user has departed from said first workout station (e.g., *inter*
279 *aliam*, 1413, Fig. 14; p-4, l-11; p-17, l-20 *et seq.*).
280
281 19. The method as set forth in claim 18 wherein said scheduling

**APPEAL BRIEF
PAGE 9 OF 25**

*Serial Number 10/617,525
Attorney Docket No. AUS920030419US1*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

282 input is received from a user wireless device (p-27, 1-10, et
283 seq.) said user wireless device being located remotely from said
284 workout server.

285

286

287 **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

288

289 **I.** Are claims 1-2, 5-6 and 9-17 unpatentable under 35 USC 103(a)
290 over Shea?

291

292

293 **II.** Are claims 3, 7, 18-19 unpatentable under 35 USC 103(a) over
294 Shea in view of Millington?

295

296

297 **ARGUMENT**

298

299 **I.** With regard to the rejection of claims 1-2, 5-6 and 9-17, as
300 being unpatentable under 35 USC 103(a) over Shea, it is initially
301 noted that claims 1, 17 and 18 are independent claims, claims 2-
302 3, 5-7 and 9-16 are ultimately dependent from claim 1 and claim
303 19 depends from claim 18. In the Office Action mailed 2/25/2008,
304 the earlier allowance of claim 8 was withdrawn in view of the
305 "newly applied" Shea reference (U.S. Patent 7,056,265, herein
306 referred to as "Shea"). However, it is noted that Shea was not
307 "newly applied" as asserted but, in fact, had been cited and
308 applied in the initial Office Action which was mailed 8/4/2006
309 and claim 8 was allowed in that Office Action over the then cited
310 references which included both Shea and Millington. In response

APPEAL BRIEF
PAGE 10 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

311 to the allowance of claim 8 in the initial Office Action, and in
312 reliance upon, and agreement with the Examiner's direction that
313 the substance of claim 8 is allowable if claim 8 were to be re-
314 written in independent form including all of the limitations of
315 the base claim and any intervening claims, applicant included the
316 substance of claim 8 and all intervening claims into amended
317 independent claim 1. The Examiner then, in the 2/25/08 Office
318 Action, rejected what the Examiner had previously stated would be
319 allowable and does not cite any new references upon which to base
320 the withdrawal of the earlier allowance. Since the substance of
321 original claim 8 was allowable over both Shea and Millington on
322 8/4/2006, the date of the First Office Action, the very same
323 substance of original claim 8 must still be allowable over the
324 very same Shea and Millington references on 2/25/2008, the date
325 of the Second Office Action and also on 8/4/2008, the date of the
326 Final Office Action, since nothing substantive has changed and no
327 new references have been cited.

328

329 It is further submitted that the cited KSR case cannot be
330 properly applied to the facts of the present application. In the
331 Final Office Action, the Examiner cites the KSR case and states
332 that "..since the applicant[s] have submitted no persuasive
333 evidence that the combination of the above elements is uniquely
334 challenging or difficult for one of ordinary skill in the art,
335 the claim is unpatentable as obvious under 35 USC 103(a) because
336 it is no more than the predictable use of prior art elements
337 according to their established functions resulting in the simple
338 substitution of one known element for another or the mere

APPEAL BRIEF
PAGE 11 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

339 application of a known technique to a piece of prior art ready
340 for improvement". It is submitted that applicant has established
341 that the inventive combination created by the applicant is
342 "uniquely challenging and difficult for one of ordinary skill in
343 the art" as specifically stated beginning on page 1, line 24
344 through page 3, line 15, *inter alia*, of the present application.
345

346 Further, it is noted that the present invention has not been
347 rejected under 35 USC 102 and therefore the present invention is
348 not anticipated by the references, and there are differences
349 between the prior art and the present invention. Since inventors
350 Shea and Millington, both of whom, by definition are skilled even
351 beyond "one of ordinary skill in the art", endeavored but were
352 unable to anticipate the present invention, it is submitted that
353 the present invention must have been "uniquely challenging and
354 difficult for one of ordinary skill in the art" since proven
355 inventors Shea and Millington were unable to produce the present
356 invention. Applicant would be willing to submit an affidavit that
357 the inventive combination created by the applicant is "uniquely
358 challenging and difficult for one of ordinary skill in the art"
359 if such an affidavit would be helpful in allowing the claims of
360 the present application.

361
362 With regard to the specific claim rejections, claim 1 includes
363 "determining when said individual user has finished using said
364 workout station, said determining being accomplished by detecting
365 when said ID signals are read for a second time at said workout
366 station ...". The Examiner in rejecting the claim under 35 USC

APPEAL BRIEF
PAGE 12 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

367 103(a) referencing only the Shea reference, admits that Shea does
368 not disclose swiping the card at the completion of the workout
369 but states that it would have been obvious to do so and that to
370 do so is the same as pushing a "STOP key". It is respectfully
371 submitted that the two are not alternatives since a swipe of the
372 card gives a positive input and identifies the user whereas a
373 STOP key can be inadvertently pushed or not pushed at all and
374 does not give a positive indication that a **particular user** has
375 finished using a **particular workstation**. Therefore, it cannot be
376 "obvious" to use a card swipe in place of a STOP key since much
377 more certain information is and may be transmitted using the card
378 swipe which is not possible using only a STOP key. **The ID**
379 **information is necessary in progressing through the workout**
380 **schedule contained in the server for the identified user and such**
381 **information cannot be confirmed using only a STOP key**. Thus the
382 second use of an ID card is substantially different from the mere
383 use of a STOP key - the two methods perform substantially
384 different functions. The Shea reference does not even recognize
385 the need for a positive ID input at the end of the user of a
386 workout station much less disclose or suggest its use, and thus
387 it is respectfully submitted that claim 1 is allowable under 35
388 USC 103(a) over Shea.

389
390 Since claims 2, 5, 6 and 9-16 ultimately depend from and include
391 all of the limitations of claim 1, in addition to even further
392 limitations as set forth in the individual claims themselves, it
393 is submitted that claims 2, 5, 6 and 9-16 are also allowable
394 under 35 USC 103(a) over Shea.

APPEAL BRIEF
PAGE 13 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

395
396 Claim 17 is an independent claim directed to a medium programmed
397 to provide operating signals to implement the method set forth in
398 claim 1. Claim 17, as does claim 1, contains the language
399 "determining when said individual user has finished using said
400 workout station, said determining being accomplished by detecting
401 when said ID signals are read for a second time at said workout
402 station ...". Thus, for the reasons set forth above with respect
403 to claim 1, it is respectfully submitted that claim 17 is also
404 allowable under 35 USC 103(a) over Shea.

405
406
407 **II.** With regard to the rejection of claims 3, 7, 18-19 as being
408 unpatentable under 35 USC 103(a) over Shea in view of Millington,
409 it is initially noted that claims 3 and 7 are dependent claims
410 ultimately depending from and including all of the limitations of
411 claim 1, in addition to even further limitations as set forth in
412 the individual claims themselves. Neither Shea nor Millington
413 suggest the "second swipe" positive input limitation discussed
414 above, for the reasons stated above, it is submitted that claims
415 3 and 7 are also allowable under 35 USC 103(a) over Shea, even in
416 further view of Millington.

417
418 Claims 18 and 19 are also believed to be allowable over Shea in
419 view of Millington. Many of the Examiner's references to the
420 cited art do not disclose what the Examiner asserts they
421 disclose, especially with regard to detailed claims 18 (*inter*
422 *alia*, detect when user enters workout facility and storing info

APPEAL BRIEF
PAGE 14 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

423 reflective thereof) and 19 (*inter alia*, remote input workout
424 scheduling from user wireless device). Further, in the Office
425 Action the Examiner cites a "Miller" reference and there is no
426 "Miller" or corresponding patent number in the listing of cited
427 references. It cannot be assumed that the Examiner intended to
428 cite the Millington reference instead of Miller since the cited
429 passage (col. 9, lines 37-57) contains no mention of "detecting
430 when a user enters said workstation facility ..." (emphasis added)
431 as is disclosed (1505, Figure 15, page 9, line 29 and 433 Figure
432 4) and claimed (claims 18 and 19) in the present application.
433 Thus claim 18 appears to be clearly allowable over Shea in view
434 of Millington.

435
436 Applicant hereby requests the patent number of the Miller
437 reference if Miller was meant to be cited so that applicant would
438 have an opportunity to read the Miller reference for
439 applicability.

440
441 With regard to claim 19, since neither Shea nor Millington
442 discloses or suggests a system in which a user is enabled to
443 input a workout schedule from a wireless device located remotely
444 from the workout server as claimed in claim 19. The present
445 invention enables a user to set-up his or her own workout
446 schedule using a wireless device from outside of a workout
447 facility and the input schedule is implemented and tracked upon
448 detection that the user has entered through the entrance of the
449 workout facility. Neither Shea nor Millington disclose or even
450 remotely suggest this methodology. Thus it is submitted that

APPEAL BRIEF
PAGE 15 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

451 claims 18 and 19 are also allowable under 35 USC 103(a) over Shea
452 in view of Millington.

453

454 It should be noted that applicant is claiming only that the **total**
455 **combination** of elements **and relationships** as recited in the
456 claims as herein amended, is neither anticipated nor rendered
457 obvious by the cited references. Applicant is aware the
458 individual elements of any claim can be isolated, and, when
459 standing alone, those elements can be found in existing
460 references. However, a claim cannot be rejected under 35 USC 103
461 by a mere showing that all of the individual elements of the
462 claim previously existed in the prior art. It is submitted to be
463 inappropriate to search the prior art using applicant's own
464 disclosure as a recipe, to find piecemeal elements in prior art
465 references for individual claimed elements, and then to combine
466 those references in a manner not contemplated by the prior art
467 references, but disclosed only by the applicant, in order to
468 reject applicant's own claims.

469

470

CONCLUSION

472

473 For the reasons stated above, applicant urges the Board to
474 conclude that the rejections of claims 1-2, 5-6 and 9-17 as being
475 unpatentable under 35 USC 103(a) over Shea, and the rejections of
476 claims 3, 7, 18-19 as being unpatentable under 35 USC 103(a) over
477 Shea in view of Millington, are not well-founded and should be
478 reversed.

APPEAL BRIEF
PAGE 16 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

479
480 Please charge IBM Corporation Deposit Account No. 09-0447 in the
481 amount of \$540.00 for submission of a Brief in Support of Appeal.
482 No additional fee or extension of time is believed to be
483 required; however, in the event an additional fee or extension of
484 time is required, please charge the fee, as well as any other fee
485 necessary to further the prosecution of this application, to the
486 above-identified deposit account.

487

488 Respectfully submitted,

489

490 /Robert V. Wilder/

491

492 Robert V. Wilder (Tel:512-246-8555)
493 Registration No. 26,352
494 Attorney for Applicant
495 4235 Kingsburg Drive
496 Round Rock, Texas 78681

APPEAL BRIEF
PAGE 17 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

497
498
499

CLAIMS APPENDIX

500 1. A method for operating a workout facility having a plurality
501 of workout stations arranged for use by individual users, said
502 method comprising:

503

504 receiving identification (ID) signals at one of said workout
505 stations, said ID signals being representative of an individual
506 user, wherein said receiving is accomplished by receiving ID
507 signals at a reading device located at said workout station, said
508 ID signals being generated by an initial reading of a code
509 contained on an article carried by said individual user;

510

511 measuring workout data generated by said individual user at said
512 workout station;

513

514 saving said workout data to a workout data file associated with
515 said individual user when said user has finished using said
516 workout station; and

517

518 determining when said individual user has finished using said
519 workout station, said determining being accomplished by detecting
520 when said ID signals are read for a second time at said workout
521 station, said second reading signifying that said individual user
522 has completed a workout at said workout station.

523

524 2. The method as set forth in claim 1 wherein said workout data
525 file is maintained at a server within said workout facility.

526

527

APPEAL BRIEF
PAGE 18 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

528 3. The method as set forth in claim 1 wherein said receiving is
529 accomplished by receiving ID signals transmitted from a
530 transmitter device carried by said individual user.

531

532 4. Cancelled.

533

534 5. The method as set forth in claim 1 wherein said code is a bar
535 code readable by an optical reading device.

536

537 6. The method as set forth in claim 1 wherein said code is a
538 magnetic code on a medium readable by a magnetic code reading
539 device.

540

541 7. The method as set forth in claim 3 and further including
542 determining when said individual user has finished using said
543 workout station, said determining being accomplished by detecting
544 an absence of said transmitted ID signals at said workout
545 station.

546

547 8. Cancelled.

548

549 9. The method as set forth in claim 1 and further including
550 displaying said workout data on a display device located at said
551 workout station.

552

553 10. The method as set forth in claim 1 and further including:

554

555 displaying said workout data file of said individual user on a
556 display device located at said workout station.

557

APPEAL BRIEF
PAGE 19 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

558 11. The method as set forth in claim 10 wherein said workout data
559 file further includes a workout routine for said individual user,
560 said workout routine including specific workout protocols for
561 said individual user at each of said plurality of workout
562 stations.

563

564 12. The method as set forth in claim 11 and further including
565 displaying said specific workout protocols for said individual
566 user on said display devices at workout stations being used by
567 said individual user.

568

569 13. The method as set forth in claim 1 and further including
570 saving workout data from a plurality of workout stations to said
571 workout data file.

572

573 14. The method as set forth in claim 1 and further including
574 enabling reservation of selected workout stations by said
575 individual user.

576

577 15. The method as set forth in claim 14 and further including
578 displaying notice of said reservation of a reserved workout
579 station at a display device located at said reserved workout
580 station.

581

582 16. The method as set forth in claim 15 and further including
583 disabling said reserved workout station, said reserved workout
584 station being selectively enabled by said receiving of said ID
585 signals associated with said individual user at said reserved
586 workout station.

587

**APPEAL BRIEF
PAGE 20 OF 25**

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

588
589 17. A medium programmed to provide operating signals when said
590 medium is read by a compatible reading device at a workout
591 facility computer system, said operating signals being effective
592 for causing said workout facility computer system to interact
593 with individual workout stations located within said workout
594 facility for:
595
596 receiving identification (ID) signals at one of said workout
597 stations, said ID signals being representative of an individual
598 user, wherein said receiving is accomplished by receiving ID
599 signals at a reading device located at said workout station, said
600 ID signals being generated by an initial reading of a code
601 contained on an article carried by said individual user;
602
603 measuring workout data generated by said individual user at said
604 workout station;
605
606 saving said workout data to a workout data file associated with
607 said individual user when said user has finished using said
608 workout station, said workout data file being stored at said
609 workout facility computer system; and
610
611 determining when said individual user has finished using said
612 workout station, said determining being accomplished by detecting
613 when said ID signals are read for a second time at said workout
614 station, said second reading signifying that said individual user
615 has completed a workout at said workout station.
616
617

APPEAL BRIEF
PAGE 21 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

618 18. A method for operating a workout facility having a plurality
.619 of workout stations arranged for use by individual users, said
620 method comprising:
621
622 receiving a request from a user to schedule a workout session
623 using said workstations at said workout facility;
624
625 enabling user access to a facility workout schedule for workout
626 stations within said workout facility;
627
628 receiving scheduling input from said user, said scheduling input
629 defining a user workout schedule for said user at said workout
630 facility;
631
632 storing said user workout schedule at a workout server used by
633 said workout facility;
634
635 reserving workout stations scheduled by said user to enable only
636 said user to use workstations at times designated in said user
637 workout schedule;
638
639 detecting when said user enters said workstation facility by
640 detecting a user identification (ID) signal transmitted from a
641 device carried by said user;
642
643 storing information indicating a presence of said user at said
644 workout facility in response to said detecting;
645
646 determining when said user is in proximity to a first workout
647 station scheduled for use by said user;

APPEAL BRIEF
PAGE 22 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

648
649 displaying said user workout schedule on a display device
650 viewable by said user from said first workout station in response
651 to said determining;
652
653 collecting workout data of said user while said user is working
654 at said first workout station;
655
656 determining when said user departs from said first workout
657 station;
658
659 updating said user workout schedule by recording said workout
660 data of said user collected at said first workout station after
661 said user has departed from said first workout station;
662
663 terminating said displaying after said determining that said user
664 has departed from said first workout station; and
665
666 enabling other users to use said first workout station after said
667 user has departed from said first workout station.
668
669
670 19. The method as set forth in claim 18 wherein said scheduling
671 input is received from a user wireless device, said user wireless
672 device being located remotely from said workout server.

APPEAL BRIEF
PAGE 23 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

EVIDENCE APPENDIX

673

.674

675 There are no items in this Appendix.

APPEAL BRIEF
PAGE 24 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

676

RELATED PROCEEDINGS APPENDIX

.677

678 There are no items in this Appendix.

APPEAL BRIEF
PAGE 25 OF 25

Serial Number 10/617,525
Attorney Docket No. AUS920030419US1